

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

JOSEPH SMITH,)	
)	2:16cv0583
Petitioner,)	Electronic Filing
)	
v.)	Judge David Stewart Cercone
)	
ATTORNEY GENERAL OF THE)	
STATE OF PENNSYLVANIA,)	
DISTRICT ATTORNEY OF)	
ALLEGHENY COUNTY, and)	
SUPERINTENDENT OF SCI-)	
GREENE,)	
Respondents.)	

MEMORANDUM ORDER

Joseph Smith, (“Smith” or “Petitioner”), proceeding *pro se*, filed the instant Petition for Writ of Habeas Corpus by a Person in State Custody (the “Petition”) pursuant to 28 U.S.C. § 2254, challenging his convictions for second-degree murder and criminal conspiracy. In his petition, Smith raised four ineffective assistance of counsel claims, each with multiple sub-parts.

The case was referred to United States Magistrate Judge Cynthia Reed Eddy for a report and recommendation in accordance 28 U.S.C. § 636(b)(1), and Rule 72 of the Local Rules for Magistrate Judges.

In a substantial Report and Recommendation (“R&R”) of thirty-five pages, Magistrate Judge Eddy made detailed findings and analysis of the pertinent law and recommended that this Court deny the petition without issuing a certificate of appealability. (ECF No. 45). Smith’s request for an extension of time to file objections was granted, and on March 16, 2020, Smith

filed extensive objections, totaling twenty-nine typewritten pages. (ECF No. 55).

Where, as here, timely objections have been filed, the court is required to “make a *de novo* determination of those portions of the report or specified findings or recommendations to which objection is made.” 28 U.S.C. § 636(b)(1); Fed.R.Civ.P. 72(b). The district court may accept, reject, or modify the recommended disposition, as well as receive further evidence or return the matter to the magistrate judge with instructions.

To the extent that Smith argues that the Magistrate Judge based the R&R on erroneous facts or incorrect legal standards, such argument is not supported by the record. As laid out in the R&R, this case is governed by AEDPA’s deferential standard that federal courts must give to the factual findings and legal determinations of the state courts.

Further, Smith’s extensive objections largely reiterate the arguments he presented in his petition (ECF No. 1) and in his reply to Respondents’ Answer (ECF No. 22), which were thoroughly considered and rejected by the Magistrate Judge. Accordingly, the Court finds that none of the objections bears any further mention as the R&R adequately addressed each of Smith’s claims and the objections do not undermine the confidence in the R&R’s analysis.

The Court has reviewed the matter and concludes that the R&R correctly analyzes the issues and makes a sound recommendation. Accordingly, after *de novo* review of the pleadings and documents in the case, together with the R&R and objections thereto, the following order is entered:

AND NOW, this 7th day of April, 2020:

IT IS ORDERED that the instant petition for writ of habeas corpus is **DENIED**. A

Certificate of Appealability likewise is denied as jurists of reason would not find it debatable that Petitioner has failed to make a substantial showing of the denial of a constitutional right. 28 U.S.C. § 2253; *Slack v. McDaniel*, 529 U.S. 473, 484 (2000).

IT IS FURTHER ORDERED that the Report and Recommendation filed September 20, 2019 (ECF No. 45) is **ADOPTED** as the opinion of the Court.

IT IS FURTHER ORDERED that the Clerk of Court mark this case **CLOSED**.

AND IT IS FURTHER ORDERED that pursuant to Rule 4(a)(1) of the Federal Rules of Appellate Procedure, Petitioner has thirty (30) days to file a notice of appeal as provided by Rule 3 of the Federal Rules of Appellate Procedure.

s/David Stewart Cercone
David Stewart Cercone
United States District Judge

cc: JOSEPH SMITH
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SCI - Greene
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(via U.S. First Class Mail)

Alicia H. Searfoss
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(via ECF electronic notification)